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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN PEARL SMITH, II,

Defendant.

No. 3:16-cr-0086-SLG

DEFENDANT JOHN PEARL SMITH'S PROPOSED TRIAL SCHEDULE

DEFENDANT JOHN PEARL SMITH'S PROPOSED
TRIAL SCHEDULE

1 On July 1, 2021, this Court held a status conference to discuss scheduling following
2 the government's withdrawal of its notice to seek the death penalty against Defendant John
3 Pearl Smith, II (ECF 1095). After hearing from the defense regarding a potential scheduling
4 conflict, this Court set the trial date for October 18, 2021, but also asked the parties to set
5 aside three weeks beginning December 6, 2021, as an alternative date. The Court indicated
6 it would finalize the trial date at a status conference scheduled for August 31, 2021.

7
8 The Court then ordered the parties to submit a proposed trial schedule by July 8,
9 2021. Defense counsel has conferred with the government regarding a proposed schedule,
10 but the parties were unable to reach agreement. Because the Court set two potential trial
11 dates, Mr. Smith proposes two alternative schedules below.

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13 **OCTOBER 18, 2021, TRIAL SCHEDULE**

14 July 19, 2021: Parties to produce remaining Jencks material pursuant to 18 U.S.C.
§ 3500; Fed. R. Crim. P. 26.2.¹

15 Aug. 16, 2021: Deadline for parties to provide the Court with a joint witness list for
16 trial.²

17 Aug. 23, 2021: Government Fed. R. Evid. (FRE) 404(b) Notice Due. Government to
18 file ex parte any previously undisclosed 18 U.S.C. § 3432 witness
information along with arguments addressing why any information
19 should not be furnished to the defense.

20 ¹ As Mr. Smith noted in his notice of information for the July 1, 2021, status conference,
21 because of the pandemic, much of the witness interviewing necessary to prepare for the
22 defense case had to be postponed and only recently restarted in full. We anticipate needing
the approximately six weeks between receiving *Jencks* and submitting a witness list to
contact (or re-locate) and interview guilt-innocence related witnesses.

23 ² Although 18 U.S.C. § 3432 no longer applies, this Court still retains discretion to order the
24 parties to file a witness list and doing so will allow the parties to streamline trial preparations
and will facilitate a more orderly presentation of evidence at trial. *See United States v. W.R.*
25 *Grace*, 526 F.3d 499, 513 (9th Cir. 2008) (holding district court did not abuse its discretion
in requiring government to disclose its final witness list a year before trial).

1	Sept. 6, 2021:	Exhibit lists filed with the Court
2	Sept. 13, 2021:	All pretrial motions, including discovery motions, Daubert motions,
3		and motions in limine. ³
4	Sept. 20, 2021:	Trial briefs, jury instructions, verdict forms, and requested voir dire
5		filed and provided to the Court.
6	Sept. 27, 2021:	Responses to pretrial motions; objections to jury instructions, verdict
7		forms, and requested voir dire
8	Oct. 4, 2021:	Replies, if any, to pretrial motions; responses to objections
9	Oct. 6, 2021:	Final pretrial conference: Defense provided with all remaining 18
10		U.S.C. § 3432 material.
11	Oct. 18, 2021:	Jury selection / trial begins

DECEMBER 6, 2021, TRIAL SCHEDULE

13	July 19, 2021:	Parties to produce remaining Jencks material pursuant to 18 U.S.C.
14		§ 3500; Fed. R. Crim. P. 26.2.
15	Sept. 8, 2021:	Deadline for parties to provide the Court with a joint witness list for
16		trial.
17	Sept. 15, 2021:	Government Fed. R. Evid. (FRE) 404(b) Notice Due. Government to
18		file ex parte any previously undisclosed 18 U.S.C. § 3432 witness
19		information along with arguments addressing why any information
20		should not be furnished to the defense.
21	Nov. 1, 2021:	Exhibit lists filed with the Court
22	Nov. 8, 2021:	All pretrial motions, including discovery motions, Daubert motions,
23		and motions in limine.
24	Nov. 15, 2021:	Trial briefs, jury instructions, verdict forms, and requested voir dire
25		filed and provided to the Court.

³ Although the parties have filed quite a few motions already, the dismissal of the death penalty and the elimination of a penalty phase will require the parties to reconfigure their evidentiary presentations and objections, which may require additional motions practice.

1 Nov. 22, 2021: Responses to pretrial motions; objections to jury instructions, verdict
2 forms, and requested voir dire
3 Nov. 27, 2021: Replies, if any, to pretrial motions; responses to objections
4 Nov. 29, 2021: Final pretrial conference: Defense provided with all remaining 18
5 U.S.C. § 3432 material.
6 Dec. 6, 2021: Jury selection / trial begins

7
8 DATED this 8th day of July 2021.

9 /s/ Suzanne Lee Elliott

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1 Certificate of Service

2 I certify that I electronically filed the
3 foregoing, and any attachments, with the Clerk
4 of court for the U.S. District Court for the
5 District of Alaska by using the district's
6 CM/ECF system on July 8, 2021. All
7 participants are registered CM/ECF users and
8 will be served by the district's CM/ECF
9 system.

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/s/ Theresa M. Duncan
Theresa M. Duncan